United Nations A/HRC/WG.6/31/MLT/3

General Assembly

Distr.: General
23 August 2018

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Thirty-first session
5-16 November 2018

Summary of Stakeholders' submissions on Malta*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 9 stakeholders' submissions[1] to the universal periodic review, presented in a summarized manner owing to word-limit constraints.

II. Information provided by stakeholders

A. Scope of international obligations[2] and cooperation with international human rights mechanisms and bodies[3]

2. The Platform of Human Rights Organisations in Malta (PHROM) recommended that Malta ratify the ICRMW, the OP-CEDAW, the OP-ICESCR and the OP-CRC-IC.[4]

3. Joint Submission (JS) 1 recommended that Malta withdraw its reservation to article 13 of the ICCPR and its reservations to the CEDAW.[5]

4. JS1, the Commissioner for Human Rights of the Council of Europe (CoE-Commissioner), and the PHROM recommended that Malta accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.[6]

5. The CoE-Commissioner called on Malta to ratify the 1997 European Convention on Nationality.[7] The CoE-Commissioner encouraged Malta to accept the collective complaint system under the European Social Charter.[8]

6. The International Campaign to Abolish Nuclear Weapons (ICAN) recommended that Malta sign and ratify the United Nations Treaty on the Prohibition of Nuclear Weapons.[9]

* The present document was not edited before being sent to United Nations translation services.

GE.18-13875(E)
1813875

Please recycle

B. National human rights framework[16]

7. The PHROM stated that Malta had not yet established a national human rights institution that conformed to the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).[11] The Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe (CoE-ACFC) stated that the main human rights protection and promotion bodies, namely the National Commission for the Promotion of Equality and the Parliamentary Ombudsman Institution, remained weak. Proposals to strengthen their independence and mandates, with a view to making them compatible with the Paris Principles and Parliamentary Assembly Resolution 1959 (2013), had not been pursued.[12]

8. The PHROM and JS2 recommended that Malta establish a national human rights institution that conforms to the Paris Principles.[13] Likewise, the CoE-ACFC recommended that Malta strengthen independence and capacity of human rights institutions in line with the Paris Principles and Parliamentary Assembly Resolution 1959 in order to allow them to carry out their respective roles effectively.[14]

9. The PHROM recommended that Malta create an inclusive platform for effective civil society dialogue on issues of national importance.[15]

10. JS2 recommended that Malta work towards ensuring that the rule of law and good governance remain vital conditions for better protecting and promoting human rights and freedoms.[16]

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross-cutting issues

Equality and non-discrimination[17]

11. The PHROM stated that although the prohibition of discrimination was enshrined in the Constitution and other legislation, there was no comprehensive protection against all forms of discrimination across all sectors. It noted that the proposed Equality Bill, whilst striving to achieving this comprehensive protection, has not yet been adopted and raised a number of concerns such as its relationship to other equality legislation (also in terms of definitions and redress mechanisms), a lack of specific discrimination grounds (e.g. political opinion/activity), a limited scope of application (police and judicial activities, sports activities and civic participation were excluded).[18] The PHROM recommended adopting equality legislation that protects all persons from all forms of discrimination in all sectors.[19]

12. The CoE-ACFC referred to reported cases of discrimination on the basis of race or ethnic origin in access to housing, employment and access to health care.[20]

13. The CoE-ACFC noted, in the absence of official data, that circumstantial evidence indicated cases of racially motivated crimes, bullying in schools, treating persons with a different skin colour as perpetrators of a crime, rather than victims or innocent bystanders. The internet and, in particular, social media had been reportedly rife with offensive content and continued to produce racist messages. The CoE-ACFC stated that the authorities appeared to have taken no steps to facilitate reporting on hate speech online.[21] Likewise, the PHROM stated that hate speech and hate crimes remained problematic.[22] It reported on verbal violence and racial abuse spreading on social media. It noted a positive development of two persons being fined for inciting racial hatred through racist comments posted in a public Facebook page in 2016.[23]

14. The European Union Agency for Fundamental Rights (EU-FRA) noted that the harassment of lesbian, gay, bisexual and transgender young persons in educational settings continued to persist, including verbal abuse, cyber bullying and physical violence.[24]

15. The CoE-ACFC recommended that Malta continue combating all forms of racism, intolerance and discrimination, establish a data collection system which would record the number of racist or ethnically motivated crimes and incidences of hate speech and set up specific monitoring and reporting mechanisms with regard to online hate speech.[25] The PHROM recommended that Malta bolster the resources of the Police Force, through increased budgetary allocation and capacity-building to enable it to effectively deal with hate crimes and hate speech.[26]

Development, the environment, and business and human rights[27]

16. JS3 stated that since the 2016 Panama Papers stories broke implicating several senior Maltese government officials in suspected money laundering, no formal police investigations had been launched into their role. Neither had police investigations been launched into serious corruption allegations surrounding the country's citizenship-by-investment scheme.[28]

17. The PHROM recommended that Malta adopt a zero-tolerance approach to corruption, kick-backs, favouritism and nepotism as well as ensure full transparency in public funds management, particularly when contracting service providers to government.[29] JS3 recommended that Malta invest in the training of law enforcement staff and develop greater resources to investigate and prosecute organised financial crime and corruption and to follow up on the work of investigative journalists and hive off the prosecutorial role of the Attorney General from its government advisory role to ensure an independent public prosecutor capable of acting in cases of corruption implicating individuals holding public office.[30]

2. Civil and political rights

Right to life, liberty and security of person

18. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CoE-CPT) noted that the procedures for involuntary admission and on-going placement of a patient in a psychiatric facility provided clearly for an independent authority, the Commissioner for Mental Health and Older Persons, to verify that the involuntary placement was warranted. The CoE-CPT concluded that the possibility of legal aid should be provided for patients who wish to challenge their involuntary placement before a court in order to further enhance the safeguards in place.[31]

Administration of justice, including impunity, and the rule of law[32]

19. The Group of Experts on Action against Trafficking in Human Beings of the Council of Europe (CoE-GRECO) commended Malta for initiating a broad multi-stakeholder consultation for justice reform, which culminated in key changes to the Constitution, in 2016, by which the independence, impartiality and transparency of the judicial system, as well as self-responsibility within the profession, had been strengthened. The establishment of two independent committees for appointment and disciplinary procedures were key achievements in this respect. The CoE-GRECO stated that further action was required to improve the transparency of judicial complaints processes.[33]

20. The CoE-CPT found that while the right of access to a lawyer was enshrined in law, there remained various deficiencies in the law. It remained concerned by the fact that the right of access to a lawyer was still subject to important limitations. The concerns were two-fold: first, it remained the case that some detained persons were not allowed to have access to a lawyer during all stages of police questioning and secondly, access to a lawyer might be delayed for a period of up to 36 hours in certain circumstances.[34]

21. The CoE- CPT called again upon Malta to ensure that all persons detained by the police can effectively benefit from access to a lawyer throughout their police custody, including during any police questioning, and that the relevant provisions of the Criminal Code are amended accordingly.[35]

22. The CoE-CPT noted that the right of the detained person to request medical assistance was enshrined in law, which included the consultation of a medical doctor of

their own choice. Nevertheless, there was no immediate medical assistance onsite to be able to quickly and safely address any medical problems that might arise. In addition, the police custody staff were not trained in first-aid.[36]

23. The CoE-CPT recommended that Malta, inter alia, ensure that all police cells where persons may be held overnight are of a reasonable size for their intended occupancy (i.e. seven m^2 for single cells, and at least four m^2 per person in multi-occupancy cells) and that detained persons held in the multi-occupancy holding cells have ready access to drinking water and toilets.[37] Likewise, it recommended that Malta improve the living conditions at the Corradino Correctional Facility, including reducing the occupancy levels in multi-occupancy dormitories to ensure that each prisoner has at least $4m^2$ of living space and provide, until such time as ready access to potable water is assured, inmates with an appropriate amount of free drinking water.[38]

24. The CoE-CPT recommended ensuring that prisoners are formally entitled to appeal to an independent authority against any disciplinary sanctions imposed, irrespective of their duration and/or severity.[39]

25. The CoE-CPT recommended that Malta put in place policies to combat discrimination and exclusion faced by transgender persons in closed institutions and that those policies should be implemented by the prison. In particular, Malta should put in place a comprehensive anti-bullying strategy to reduce any incidences of inter-prisoner violence and intimidation, especially those directed against transgender prisoners.[40]

26. Furthermore, the CoE-CPT considered that transgender persons should either be accommodated in the prison section of the respective gender with which they self-identify or, if exceptionally necessary for security or other reasons, in a separate section. If accommodated in a separate section, they should be offered activities and association time with the other prisoners of the gender with which they self-identify.[41]

27. The CoE-CPT noted that the Board of Visitors for Detained Persons and the Board of Visitors for Prison were officially designated as the National Preventive Mechanism in 2007. The CoE-CPT considered that care should be taken to ensure that all elements of the National Preventive Mechanism structure and all the personnel concerned comply with the requirements laid down by the OP-CAT and the Guidelines established by the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT).[42]

28. The CoE-CPT noted that the two Boards could only monitor specific places of detention: the Prison Board could only monitor prison establishments, while the Board for Detained Persons could only monitor places of immigration detention. While the monitoring of all persons held in psychiatric facilities was carried out by the Mental Health Commissioner, this body did not form part of the National Preventive Mechanism. There was no regular independent monitoring being undertaken of police facilities or of its social care homes.[43]

29. The CoE-CPT recommended that Malta establish the legal mandate for relevant independent bodies to adequately access and monitor all the different types of places of deprivation of liberty, ensure that the National Preventive Mechanism has the necessary powers for its proper functioning, including the appropriate resources, access to all relevant documentation concerning ill-treatment allegations and the power to refer complaints of ill treatment to relevant external bodies. The National Preventive Mechanism should be endowed with the relevant functions to allow it properly to fulfil the requirements laid down by OP-CAT and the Guidelines established by the SPT.[44]

Fundamental freedoms and the right to participate in public and political life

30. JS3 reported that press freedom has deteriorated in Malta since 2013.[45] It referred to findings of 2017 indicating that basic protection of journalists had deteriorated since 2016.[46]

31. JS3 and the PHROM reported on the assassination of the investigative journalist and anti-corruption campaigner, Daphne Caruana Galizia on 16 October, 2017. The PHROM noted that her investigations were concerned allegations of institutionalised corruption and

governance malpractice, alleging serious violations at the highest levels of the government.[47]

32. JS3 noted with concern that defamation remained a criminal offence under article 252 of the Criminal Code. Prosecutions for defamation were generally only at the behest of the offended party. Additionally, JS3 was concerned with the following provisions of laws which threatened freedom of expression: imputing misconduct to government (article 75 of the Criminal Code), reviling judges and other public officials (article 93 of the Criminal Code), defamation and insult of the President (article 72 of the Criminal Code), imputing ulterior motives to the President (article 5 of the Press Act), seditious libel (article 74 of the Criminal Code) and insulting and showing contempt for the Maltese flag (article 5 of the Press Act).[48]

33. JS3 reported that the use of criminal libel laws was relatively common, including against the media. It noted that when independent columnist Daphne Caruana Galizia died, there were 47 libel suits against her.[49] JS3 stated that excessive use was made of strategic lawsuits against public participation by senior government figures and economically powerful individuals to harass and intimidate journalists into silence by forcing them to make repeated court appearances and pay highly exorbitant legal fees.[50]

34. JS3 welcomed the fact that Malta repealed its criminal blasphemy provisions in 2016. The Government announced, in February 2017, plans to repeal criminal libel. JS3 recommended that Malta review the draft Media and Defamation Act, bring it in line with the recommendations outlined in the analysis of the Organisation for Security and Co-operation in Europe (OSCE) Representative of Freedom of Media and enact it without further delay.[51]

35. Furthermore, JS3 recommended that defamation be decriminalised and that Malta, in the interim, ensure that excessive fines and other harsh penalties for criminal defamation never be available as a sanction for breach of defamation laws, no matter how egregious or blatant the defamatory statement.[52] It recommended that the authorities, inter alia, make unequivocal public statements against firms who seek to use strategic lawsuits against public participation measures against Maltese journalists through jurisdictions outside the European Union and develop the capacity of the judiciary to more effectively identify, examine and where necessary, dismiss strategic lawsuits against public participation.[53]

36. JS3 recommended that Malta adequately address all concerns expressed by civil society organisations and Daphne Caruana Galizia's family related to the independence and effectiveness of the investigation into her assassination.[54]

37. JS3 referred to the reported several indicators of high risk for media pluralism, including the lack of political independence of media and the lack of independence of public service media governance and funding. It explained that political parties hold an extensive media ownership and that the appointment procedures for Malta's Public Broadcasting Service and the Broadcasting Authority did not guarantee independence from political interference.[55] It recommended that Malta, inter alia, seek to ensure that a sufficient variety of media outlets provided by a range of different owners, both private and public, is available to the public, taking into account the characteristics of the media market, notably the specific commercial and competition aspects.[56]

38. The Office for Democratic Institutions and Human Rights of the OSCE (OSCE/ODIHR) stated that its 2017 report concluded that Malta's early parliamentary elections of 2017 were held in a professional and efficient manner, with electoral stakeholders expressing confidence in most stages of the process, but aspects of the legal framework could benefit from further review. While welcoming Malta's recent reforms on the frameworks for political and campaign finance, the report of the OSCE/ODIHR underscored that some provisions for the reporting of donations and expenditures could be further strengthened to foster greater transparency, allay public concerns about possible corruption and make the reporting system more effective. Other recommendations included: reforming provisions for assisted voting in order to ensure ballot secrecy, adopting legislation to allow prisoners to vote, and the introduction of explicit provisions allowing for citizen and international election observations.[57]

Prohibition of all forms of slavery[58]

39. The CoE-GRETA noted that Malta remained a country of destination for victims of trafficking in human beings.[59] It noted the second and third national action plans against trafficking in human beings. The CoE-GRETA considered that Malta should ensure that the budget allocated to action against human trafficking is adequate to cover all actions needed to combat human trafficking and should continue involving civil society actors in anti-trafficking work and should allocate appropriate funding to non-governmental organisations for the purpose of supporting victims of trafficking in human beings.[60]

40. The Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings (CoE-CP) welcomed the expansion of the legal definition of trafficking in human beings to include forced labour and activities associated with begging among the purposes of exploitation, specifying the irrelevance of the victim's consent to the intended or actual exploitation.[61] The CoE-GRETA, while welcoming the measures taken by Malta to prevent trafficking in human beings for the purpose of labour exploitation, considered that those efforts should be intensified, including by further sensitising relevant officials about trafficking for the purpose of labour exploitation and the rights of victims, and working closely with the private sector, in line with the Guiding Principles on Business and Human Rights.[62]

41. The CoE-CP welcomed the steps taken to put in place a National Referral Mechanism and the efforts made to provide training on human trafficking to a range of professionals, thereby increasing capacity to identify victims. It also welcomed the further development of the legal framework for providing assistance to victims of trafficking through the adoption of a new Victims of Crime Act. The CoE-CP recommended that Malta step up its efforts to provide assistance, including safe accommodation, which is adapted to the specific needs of victims of trafficking.[63] The CoE-GRETA and the CoE-CP recommended removing the need to co-operate with the authorities as a pre-condition for being granted a recovery and reflection period and establishing the minimum duration of the recovery and reflection period at 30 days.[64]

42. Furthermore, the CoE-CP recommended improving the identification and assistance of child victims of trafficking and introducing as an aggravating circumstance the offence of trafficking in human beings committed against a child, regardless of the means used.[65]

43. The CoE-GRETA and the CoE-CP recommended ensuring that crimes related to human trafficking are investigated, prosecuted and adjudicated promptly and effectively, including by providing regular training to judges and prosecutors on human trafficking and the rights of victims and encouraging the development of specialisation among judges and prosecutors.[66]

3. Economic, social and cultural rights[67]

44. The PHROM recommended that Malta consider ensuring the justiciability of economic, social and cultural rights.[68]

Right to social security

45. The PHROM recommended that Malta increase the minimum wage for it to reflect cost of living in Malta and/or explore alternative measures to reduce poverty.[69]

Right to health[70]

46. The CoE-CPT noted that Mount Carmel Psychiatric Hospital continued to serve both as a mental health facility treating patients with acute and chronic mental health disorders and a social care home for those in need of assisted care. The development of appropriate structures for care in the community should be pursued. The living conditions in most of the wards were generally acceptable. Nevertheless, the CoE-CPT made a number of recommendations inter alia to render the dormitories less austere and reduce the occupancy levels therein and to improve access to the outdoors.[71] JS2 noted with concern the lack of investment in psychiatric hospital Mount Carmel. It recommended that Malta improve mental health services.[72]

47. JS2 recommended that Malta create guidelines for mental health education for all levels of education in order to educate youth against the stigmatisation of mental health issues and provide awareness on the provision of counselling in the educational system.[73]

48. The CoE-Commissioner observed that women's sexual and reproductive health and rights remained sensitive issues and that abortion remained a taboo issue in public debates. The very restrictive domestic legislation that criminalised abortion in a blanket manner jeopardised the full enjoyment by women of a number of their human rights. At the same time, women who decide to end their pregnancy travel to European countries to obtain safe abortion services or undergo illegal abortion at home. He noted that this situation led to a de facto discrimination between women who could afford to travel abroad for this purpose and those who could not. Thus, the current prohibition regime need to be addressed through an open and informed public debate leaving no space for stigmatisation or threats to those engaged therein.[74] The ADF International reported on issues related to abortions.[75]

49. The CoE-Commissioner recommended that appropriate measures be adopted in order to decriminalise abortion and facilitate access to safe and legal abortion care on a woman's request in early pregnancy, and thereafter throughout pregnancy in order to protect every woman's health and life and to ensure freedom from ill-treatment.[76]

50. JS2 recommended that Malta formulate a holistic policy on sexual education, which includes an expert taskforce of educators in secondary schools and incorporate both formal and non-formal education, and further invest in high quality sexual health clinics and services.[77]

Right to education

51. The PHROM identified the lack of human rights education and the lack of sensibility towards the core human rights values of equality, human dignity, civic participation, mutual respect, transparency and social responsibility throughout Malta's education. It recommended that Malta include human rights components in the national curriculum and amend the educational approach for it to foster critical thinking, active citizenship and inclusive communities.[78]

4. Rights of specific persons or groups

Women[79]

52. The CoE-Commissioner noted, in 2017, that the Gender-Based Violence and Domestic Violence Bill pending in parliament was formulated in a gender-neutral way, and did not make any specific reference to women. Although men, too, could be victims of domestic violence, in the vast majority of cases the victims were women and girls. He considered that the link between gender inequality and violence against women should be clearly reflected in the aforementioned Bill, possibly in its preamble, as well as in the implementation instruments.[80]

53. The CoE-Commissioner noted a series of obstacles to the effective implementation of the existing legislative framework on domestic violence. One such obstacle was the inadequate reporting of domestic violence, sometimes as a result of a reported lack of trust on the part of victims in the police force's commitment to effectively investigating such cases. Other obstacles reportedly were: lack of social support provided at the initial stages of these procedures at police stations and reluctance of certain judges to effectively sanction perpetrators, especially in cases where victims declare in court that they "forgive" the reported acts of violence. He hoped that the gender- based violence and domestic violence strategy and action plan launched by the Minister for European Affairs and Equality would address those issues and ensure full and effective implementation of the legislative framework.[81]

54. The CoE-Commissioner invited Malta to pay particular attention to obstacles to the issuance of protection orders by courts. He also urged Malta to make sure that all law enforcement officers, prosecutors and judges dealing with domestic violence are provided with training in an on-going and systematic manner.[82]

55. In this respect, the CoE-Commissioner also noted a reported shortage of places in women's shelters and urged the government to address it. The CoE-Commissioner highlighted the need for allocating more financial resources to social care provided to victims of domestic violence by both civil society organisations and state services.[83]

56. The OSCE/ODIHR noted a decrease in women's representation in the Parliament, which currently stands at 11.9 percent. It encouraged Malta to consider special temporary measures to advance women's participation in decision making and to introduce specific measures to promote women's participation in politics.[84]

Children[85]

57. The EU-FRA noted that the government introduced, for the first time, a child supplement allowance into the 2015 National Budget.[86] At the same time, it reported, in 2017, that the proportion of children at risk of poverty or social exclusion has increased.[87]

58. The CoE-CPT was concerned about the practice of placing children exhibiting challenging behaviour in a closed psychiatric facility. It recommended that more robust procedures be put in place to prevent such placements.[88]

Persons with disabilities[89]

59. The EU-FRA stated that Malta had moved to formalise the participation of persons with disabilities in decision-making by amending a number of legal acts to provide for persons with disabilities' membership of the governing authorities of different public entities. The Parliament also passed legislation that made mandatory the inclusion of at least one person with disabilities within governmental boards.[90]

60. Furthermore, the EU-FRA stated that the Government's approach to adopting regulations that affect persons with disabilities represents good practice with respect to engaging in consultations and dialogues with civil society. The Committee for a Right Society, which was composed of persons with disabilities and their relatives, representatives of persons with disabilities and other experts, designed the first National Disability Policy for Malta (2014).[91]

61. The EU-FRA noted that the Parliament passed the Sign Language Act (2015), which made sign language an official language.[92] However, the PHROM noted that the translation of the law into effective services appeared to be still unsuccessful.[93]

Migrants, refugees and asylum seekers[94]

62. The CoE-Commissioner encouraged Malta to support and promote human rights awareness campaigns in order to tackle negative perceptions and stereotypes that affect migrants.[95]

63. In 2013, the European Commission against Racism and Intolerance (CoE-ECRI) recommended that the authorities provided non-custodial alternatives to detention and refrained from resorting to the detention of migrants and asylum seekers unless it was strictly necessary in the particular circumstances of an individual case.[96] The PHROM reported that Malta revised, in 2015, its administrative detention regime, whereby detention was no longer an automatic and mandatory consequence of the irregular entry or presence of migrants.[97]

64. Likewise, the CoE-ECRI noted, in 2016, that the amendments were made to the Immigration Act and to the Reception of Asylum Seekers Regulations. Consequently, asylum seekers could only be detained after a detention order was issued by the Principal Immigration Officer following an assessment of the case. Detention could be ordered for one or more reasons which were set out in an exhaustive list. The amended regulations also set out specific alternatives to detention for asylum seekers. Asylum applicants could not be kept in detention for more than nine months.[98] However, the CoE-ECRI noted that as concerns other migrants ("prohibited immigrants") against whom a return decision had been taken and a removal order issued, the Immigration Act set out that they might be detained in custody until removed from Malta.[99]

65. The PHROM expressed concern at on-going practices, namely migrants were not provided with information on the reasons for their detention and on the possibility to challenge the legality of their detention in a language that they understood, or in the presence of an interpreter, and at physical conditions within the detention centres remained substandard and undignified.[100]

66. In 2013, the CoE-ECRI recommended that Malta amended the asylum procedure so as to ensure free legal aid as from the outset of the asylum procedure, in particular at the time when the preliminary questionnaire was filled in, the asylum seeker's access to his/her case file; and a right in all cases to appear before the Refugee Appeals Board at the appeals stage.[101] In 2016, the CoE-ECRI reported that free legal aid was only provided at the appeal stage of the asylum procedure. As for access to the case file, CoE-ECRI noted information indicating that asylum seekers have experienced difficulties in accessing their case files. While asylum seekers had access to their case files in theory, this did not always happen in practice.[102]

67. The CoE-Commissioner noted that many of migrants and beneficiaries of international protection continued to remain in reception centres because of a lack of affordable housing. He urged Malta to give full effect to Article 31 of the European Social Charter, guaranteeing the right to housing, and Article 16 of the Charter concerning the right of the family to social, legal and economic protection, by taking appropriate measures to improve public housing schemes and to eradicate discrimination that migrants may face in their access to housing. The CoE-Commissioner called on Malta to accept Article 19 of the Charter concerning specifically the right of migrant workers and their families to protection and assistance.[103] Similarly, the PHROM recommended that Malta improve the living conditions in the open centres and consider adopting a long term plan aimed at shutting them down and resorting to a community-based approach to housing.[104]

68. The CoE-CPT noted positively that since 2014 unaccompanied and separated children as well as families with children were no longer detained in military detention centres. Instead, they were placed in special open immigration reception centres in Dar il-Liedna and Dar is-Sliema. It also noted information about the establishment of an Initial Reception Centre in Hal Far intended to accommodate minors and families for up to 15 days following their arrival in Malta.[105]

69. The CoE-Commissioner stated that distinctions concerning entitlement to social security benefits between refugees and beneficiaries of other forms of international protection should be removed. He invited Malta to give effect to Article 13(4) European Social Charter so that all foreign nationals, be they legally present or in an irregular situation, are entitled to emergency medical and social assistance.[106]

70. The CoE-Commissioner stated that beneficiaries of subsidiary protection were not entitled to family reunification under Maltese law. Laws and policies that clearly disadvantaged persons with subsidiary protection might be ill-founded and discriminatory. He urged Malta to put an end to this form of unfair distinction and establish family reunification procedures able to guarantee flexibility, promptness and effectiveness in order to secure all international protection holders' right to respect for family life.[107]

71. While mentioning access of long-term residents to citizenship as a major factor of migrant integration, the CoE-Commissioner noted with concern that naturalisation applications were considered only if the applicants had resided in Malta for more than 18 years which was clearly excessive. In addition, the naturalisation process has been reportedly lengthy and non-transparent, while decisions were not subject to judicial review. He called on Malta to facilitate migrants' access to citizenship.[108]

Stateless persons

72. JS1 stated that Malta had no mechanism to identify and determine statelessness. Stateless persons were vulnerable to arbitrary detention. There was limited disaggregated population data on statelessness and there was no stateless category in the census. JS1 stated that there were some safeguards in domestic laws to prevent statelessness, but the implementation was problematic and there were some gaps.[109]

73. JS1 reported that there was a provision for children born stateless in Malta to acquire citizenship after five years' residence, but this provision was little-known and there were no reports of it ever having been used. There was a safeguard against statelessness in adoption case.[110]

74. JS1 recommended that Malta implement a Statelessness Determination Procedure in order to comply with the 1954 Convention, and ensure that the procedure is fair, effective and accessible to all persons in Malta regardless of their legal status. It recommended adding the categories 'stateless' and 'unknown nationality' in national census exercises. JS1 recommended that Malta ensure that stateless persons or persons at risk of statelessness are not subjected to arbitrary detention because of their status.[111]

75. JS1 recommended that Malta ensure that all children born in its territory or to a Maltese parent, are guaranteed without discrimination their right to a nationality, including by removing the five-year legal residence requirement and putting concrete measures in place to fully implement the legal safeguard so that no child is born stateless in Malta.[112] The CoE-GRETA made a similar recommendation.[113]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

Individual submissions:

ICAN	International Campaign to Abolish Nuclear Weapons, Geneva (Switzerland);
ADF International	Alliance Defending Freedom International (Geneva) Switzerland.

Joint submissions:

JS1	**Joint submission 1 submitted by**: Aditus Foundation (Malta) the Institute on Statelessness and Inclusion (The Netherlands) and the European Network on Statelessness (United Kingdom);
JS2	**Joint submission 2 submitted by**: the Maltese National Youth Council (Malta) and the European Youth Forum (Belgium);
JS3	**Joint submission 3 submitted by**: Article 19 (United Kingdom), English Pen (United Kingdom); PEN International, International Press Institute (Austria) and Reporters Sans Frontières (France);
PHROM/JS4	**Joint submission 4 submitted by**: the Platform of Human Rights Organisations, a network of over 30 human rights NGOs (Malta).

Regional intergovernmental organization(s):

CoE	The Council of Europe, Strasbourg (France); Attachments: (CoE-Commissioner Letter of 5 December 2017) Letter of the Commissioner for Human Rights to the Prime Minister of Malta, 5 December 2017, Strasbourg; (CoE-Commissioner Letter of 14 December 2017) Letter of the Commissioner for Human Rights to the Minister for Home Affairs and National Security of Malta, 14 December 2017, Strasbourg; (CoE-ECRI) European Commission against Racism and Intolerance's conclusions on the implementation of the recommendations in respect of Malta subject to interim follow-up, adopted on 30 June 2016, CRI (2016) 39; (CoE-GRETA) - Group of Experts on Action against Trafficking in Human Beings, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Malta, Second

	Evaluation Round, Strasbourg, adopted on 2 December 2016; GRETA (2017) 3; (CoE-CP) Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings, Recommendation CP (2017) 3 on the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Malta, adopted on 10 March 2017; (CoE-ACFC) Advisory Committee on the Framework Convention For The Protection Of National Minorities, Strasbourg, Fourth Opinion on Malta adopted on 14 October, 2016 ACFC/OP/II (2016) 009; (CoE-CPT) Report to the Maltese Government on the visit to Malta by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 3 to 10 September 2015, CPT/Inf (2016) 25; (CoE-GRECO) Compliance Report on Malta, Fourth Round Evaluation, Corruption Prevention of members of parliament, judges and prosecutors, adopted by the Group of States against Corruption on 24 March, 2017, GrecoRC4 (2017) 5;
EU-FRA	European Union Agency for Fundamental Rights, Vienna (Austria);
OSCE/ODIHR	Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe, Warsaw, Poland.

[2] The following abbreviations are used in UPR documents:

OP-ICESCR	Optional Protocol to International Covenant on Economic, Social and Cultural Rights;
ICCPR	International Covenant on Civil and Political Rights;
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women;
OP-CEDAW	Optional Protocol to CEDAW;
OP-CAT	Optional Protocol to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
OP-CRC-IC	Optional Protocol to the Convention on the Rights of the Child on a communications procedure;
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

[3] For relevant recommendations see A/HRC/25/17, paras. 102.1, 102.6 – 102.24.
[4] PHROM, paras. 22 and 23.
[5] JS1, paras. 31 (III) and 31 (IV). See also PHROM, para. 20.
[6] JS1, para. 31 (I), CoE-Commissioner Letter of 14 December 2017, p. 2 and PHROM, para. 21.
[7] CoE-Commissioner Letter of 14 December 2017, p. 2.
[8] CoE-Commissioner Letter of 14 December 2017, p. 1.
[9] ICAN, p. 1.
[10] For relevant recommendations see A/HRC/25/17, paras. 102.2, 102.28 – 102.33, 102.38, 102.39.
[11] PHROM, para.14.
[12] CoE-ACFC, p. 1, Summary. See also paras. 17-19.
[13] PHROM, para. 40 and JS2, para. 4.6.
[14] CoE-ACFC, p. 1, see also para. 21.
[15] PHROM, para. 25.
[16] JS2, para. 4.6.
[17] For relevant recommendations see A/HRC/25/17, paras. 102.26, 102.33 – 102.37, 102.47, 102.50, 102.57- 102.66.
[18] PHROM, para.15.
[19] PHROM, para.32.
[20] CoE-ACFC, para.28. See also EU-FRA, pp. 8-9.
[21] CoE-ACFC, para. 27.
[22] PHROM, para. 3.
[23] PHROM, paras. 4- 5. See also EU-FRA, p. 4.
[24] EU-FRA, p. 11.
[25] CoE-ACFC, p. 1 and paras. 29 and 30. See also PHROM, para. 27.
[26] PHROM, para. 26.

[27] For relevant recommendations see A/HRC/25/17, paras. 102.39 and 102.48.
[28] JS3, para. 26.
[29] PHROM, paras. 30 and 31.
[30] JS3, p. 7.
[31] CoE-CPT, Executive summary, p. 8.
[32] For relevant recommendations see A/HRC/25/17, paras. 102.87, 102.88, 102.89, 102.90.
[33] CoE-GRECO, para. 52.
[34] CoE-CPT, para. 18.
[35] CoE-CPT, para. 19.
[36] CoE-CPT, para. 20.
[37] CoE-CPT, paras. 28 and 30.
[38] CoE-CPT, para. 58.
[39] CoE-CPT, para. 86.
[40] CoE-CPT, para. 57.
[41] CoE-CPT, para. 53.
[42] CoE-CPT, paras. 10 and 11.
[43] CoE-CPT, para. 12. See also para. 26.
[44] CoE-CPT, para. 12.
[45] JS3, para. 2.
[46] JS3, para. 27.
[47] PHROM, para. 13 and JS2 para. 2.
[48] JS3, paras. 3 and 8.
[49] JS3, para. 9.
[50] JS3, para. 16.
[51] JS3, para. 12 and p. 4.
[52] JS3, p. 4. See also OSCE/ODIHR, p. 2.
[53] JS3, p. 4.
[54] JS3, p. 7.
[55] JS3, paras. 27 - 28.
[56] JS3, p. 8.
[57] OSCE/ODIHR, pp. 1-2.
[58] For relevant recommendations see A/HRC/25/17, paras. 102.27, 102.81 – 102.86.
[59] CoE-GRETA, para. 12.
[60] CoE-GRETA, paras. 22, 24, 25 and 170.
[61] CoE-CP, para. 1.
[62] CoE-GRETA, para. 56.
[63] CoE-CP, paras. 1-2.
[64] CoE-GRETA, para. 110 and CoE-CP, para. 2.
[65] CoE-CP, para. 2. See also CoE-GRETA, paras. 102 and 139.
[66] CoE-CP, para. 2 and CoE-GRETA, para. 155.
[67] For relevant recommendations see A/HRC/25/17, paras. 102.42.
[68] PHROM, para. 24.
[69] PHROM, para. 34.
[70] For relevant recommendations see A/HRC/25/17, paras. 102.75 – 102.80, 102.99, 102.100 and 102.102.
[71] CoE-CPT, Executive Summary, p. 8.
[72] JS2, paras. 3.2 and 3.4.
[73] JS2, para. 3.4.
[74] CoE-Commissioner Letter of 5 December 2017, p. 2.
[75] ADF International, paras. 3-14 and 18.
[76] CoE-Commissioner Letter of 5 December 2017, p. 2.
[77] JS2, para. 2.5.
[78] PHROM, paras. 8 and para. 28.
[79] For relevant recommendations see A/HRC/25/17, paras. 102. 51 - 102. 55, 102.67 – 102.71 and 102.98.
[80] CoE-Commissioner Letter of 5 December 2017, p. 1.
[81] CoE-Commissioner Letter of 5 December 2017, p. 1.
[82] CoE-Commissioner Letter of 5 December 2017, pp. 1-2.
[83] CoE-Commissioner Letter of 5 December 2017, p. 2.
[84] OSCE/ODIHR, pp. 2 and 4.
[85] For relevant recommendations see A/HRC/25/17, para. 102.72.
[86] EU-FRA, p. 6.

[87] EU-FRA, p. 5.
[88] CoE-CPT, Executive Summary, p. 8.
[89] For relevant recommendations see A/HRC/25/17, paras. 102.103 – 102.105.
[90] EU-FRA, pp. 7-8.
[91] EU-FRA, p. 7.
[92] EU-FRA, p. 8.
[93] PHROM, para. 6.
[94] For relevant recommendations see A/HRC/25/17, paras. 102.41, 102.106 – 102.134.
[95] CoE-Commissioner Letter of 14 December 2017, p. 1.
[96] CoE-ECRI, p. 5.
[97] PHROM, para. 18. See also CoE-CPT, para. 33.
[98] CoE-ECRI, p. 5.
[99] CoE-ECRI, p. 5.
[100] PHROM, para. 18.
[101] CoE-ECRI, p. 6.
[102] CoE-ECRI, p. 6.
[103] CoE-Commissioner Letter of 14 December 2017, p. 1.
[104] PHROM, para. 36.
[105] CoE-CPT, para. 34.
[106] CoE-Commissioner Letter of 14 December 2017, p. 1.
[107] CoE-Commissioner Letter of 14 December 2017, p. 2.
[108] CoE-Commissioner Letter of 14 December 2017, p. 2.
[109] JS1, paras. 12 -16 and 24 - 26.
[110] JS1, para. 27.
[111] JS1, para. 31.
[112] JS1, para. 31.
[113] CoE-GRETA, para. 62.